

Union Calendar No. 448

105TH CONGRESS
2D Session

H. R. 3888

[Report No. 105-801]

A BILL

To amend the Communications Act of 1934 to improve the protection of consumers against “slamming” by telecommunications carriers, and for other purposes.

OCTOBER 8, 1998

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

MAY 14, 1998

Mr. TAUZIN (for himself, Mr. BASS, Mr. GOODLATTE, Mr. GILLMOR, Mr. BURR of North Carolina, Mr. SKEEN, Mr. FRANKS of New Jersey, and Mr. BACHUS) introduced the following bill; which was referred to the Committee on Commerce

OCTOBER 8, 1998

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on May 14, 1998]

A BILL

To amend the Communications Act of 1934 to improve the protection of consumers against “slamming” by telecommunications carriers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Telecommunications*
 3 *Competition and Consumer Protection Act of 1998”.*

4 **TITLE I—SLAMMING**

5 **SEC. 101. IMPROVED PROTECTION FOR CONSUMERS.**

6 *(a) CONSUMER PROTECTION PRACTICES.—Section 258*
 7 *of the Communications Act of 1934 (47 U.S.C. 258) is*
 8 *amended to read as follows:*

9 **“SEC. 258. ILLEGAL CHANGES IN SUBSCRIBER SELECTIONS**
 10 **OF CARRIERS.**

11 *“(a) ALTERNATIVE MODES OF REGULATION.—*

12 *“(1) INDUSTRY/COMMISSION CODE.—Within 180*
 13 *days after the date of enactment of the Telecommuni-*
 14 *cations Competition and Consumer Protection Act of*
 15 *1998, the Commission, after consulting with the Fed-*
 16 *eral Trade Commission and representatives of tele-*
 17 *communications carriers providing telephone toll*
 18 *service and telephone exchange service, State commis-*
 19 *sions, and consumers, and considering any proposals*
 20 *developed by such representatives, shall prescribe,*
 21 *after notice and public comment and in accordance*
 22 *with subsection (b), a Code of Subscriber Protection*
 23 *Practices (hereinafter in this section referred as the*
 24 *‘Code’) governing changes in a subscriber’s selection of*
 25 *a provider of telephone exchange service or telephone*
 26 *toll service.*

1 “(2) *OBLIGATION TO COMPLY.*—No telecommuni-
 2 *cations carrier (including a reseller of telecommuni-*
 3 *cations services) shall submit or execute a change in*
 4 *a subscriber’s selection of a provider of telephone ex-*
 5 *change service or telephone toll service except in ac-*
 6 *cordance with—*

7 “(A) *the Code, if such carrier elects to com-*
 8 *ply with the Code in accordance with subsection*
 9 *(b)(2); or*

10 “(B) *the requirements of subsection (c), if—*

11 “(i) *the carrier does not elect to comply*
 12 *with the Code under subsection (b)(2); or*

13 “(ii) *such election is revoked or with-*
 14 *drawn.*

15 “(b) *MINIMUM PROVISIONS OF THE CODE.*—

16 “(1) *SUBSCRIBER PROTECTION PRACTICES.*—*The*
 17 *Code required by subsection (a)(1) shall include pro-*
 18 *visions addressing the following:*

19 “(A) *IN GENERAL.*—*A telecommunications*
 20 *carrier (including a reseller of telecommuni-*
 21 *cations services) electing to comply with the Code*
 22 *shall submit or execute a change in a subscriber’s*
 23 *selection of a provider of telephone exchange serv-*
 24 *ice or telephone toll service only in accordance*
 25 *with the provisions of the Code.*

1 “(B) *NEGATIVE OPTION*.—A telecommuni-
2 cations carrier shall not use negative option
3 marketing.

4 “(C) *VERIFICATION*.—A telecommunications
5 carrier shall verify the subscriber’s selection of
6 the carrier in accordance with procedures speci-
7 fied in the Code.

8 “(D) *UNFAIR AND DECEPTIVE ACTS AND*
9 *PRACTICES*.—No telecommunications carrier, nor
10 any person acting on behalf of any such carrier,
11 shall engage in any unfair or deceptive acts or
12 practices in connection with the solicitation of a
13 change in a subscriber’s selection of a tele-
14 communications carrier.

15 “(E) *NOTIFICATION AND RIGHTS*.—A tele-
16 communications carrier shall provide timely and
17 accurate notification to the subscriber in accord-
18 ance with procedures specified in the Code.

19 “(F) *SLAMMING LIABILITY AND REM-*
20 *EDIES*.—

21 “(i) *REQUIRED REIMBURSEMENT AND*
22 *CREDIT*.—A telecommunications carrier
23 that has improperly changed the subscrib-
24 er’s selection of a telecommunications car-

rier without authorization, shall at a minimum—

“(I) reimburse the subscriber for the fees associated with switching the subscriber back to their original carrier; and

“(II) provide a credit for any telecommunications charges incurred by the subscriber during the period, not to exceed 30 days, while that subscriber was improperly presubscribed.

“(ii) *PROCEDURES.*—The Code shall prescribe procedures by which—

“(I) a subscriber may make an allegation of a violation under clause (i);

“(II) the telecommunications carrier may rebut such allegation;

“(III) the subscriber may, without undue delay, burden, or expense, challenge the rebuttal; and

“(IV) resolve any administrative review of such an allegation within 75 days after receipt of an appeal.

“(G) *RECORDKEEPING.*—A telecommunications carrier shall make and maintain a

1 *record of the verification process and shall pro-*
2 *vide a copy to the subscriber immediately upon*
3 *request.*

4 *“(H) QUALITY CONTROL.—A telecommuni-*
5 *cations carrier shall institute a quality control*
6 *program to prevent inadvertent changes in a*
7 *subscriber’s selection of a carrier.*

8 *“(I) INDEPENDENT AUDITS.—A tele-*
9 *communications carrier shall provide the Com-*
10 *mission with an independent audit regarding its*
11 *compliance with the Code at intervals prescribed*
12 *by the Code. The Commission may require a tele-*
13 *communications carrier to provide an independ-*
14 *ent audit on a more frequent basis if there is evi-*
15 *dence that such telecommunications carrier is*
16 *violating the Code.*

17 *“(2) ELECTION BY CARRIERS.—Each tele-*
18 *communications carrier electing to comply with the*
19 *Code shall file with the Commission within 10 days*
20 *after the adoption of the Code, or within 10 days after*
21 *commencing operations as a telecommunications car-*
22 *rier, a statement electing the Code to govern such car-*
23 *rier’s submission or execution of a change in a cus-*
24 *tomers’ selection of a provider of telephone exchange*
25 *service or telephone toll service. Such election by a*

1 *carrier may not be revoked or withdrawn unless the*
 2 *Commission finds that there is good cause therefor,*
 3 *including a determination that the carrier has failed*
 4 *to adhere in good faith to the applicable provisions of*
 5 *the Code, and that the revocation or withdrawal is in*
 6 *the public interest. Any telecommunications carrier*
 7 *that fails to elect to comply with the Code shall be*
 8 *deemed to have elected to be governed by the sub-*
 9 *section (c) and the Commission's regulations there-*
 10 *under.*

11 *“(c) REGULATIONS OF CARRIERS NOT COMPLYING*
 12 *WITH CODE.—*

13 *“(1) IN GENERAL.—A telecommunications car-*
 14 *rier (including a reseller of telecommunications serv-*
 15 *ices) that has not elected to comply with the Code*
 16 *under subsection (b), or as to which the election has*
 17 *been withdrawn or revoked, shall not submit or exe-*
 18 *cute a change in a subscriber's selection of a provider*
 19 *of telephone exchange service or telephone toll service*
 20 *except in accordance with this subsection and such*
 21 *verification procedures as the Commission shall pre-*
 22 *scribe.*

23 *“(2) VERIFICATION.—*

24 *“(A) IN GENERAL.—In order to verify a*
 25 *subscriber's selection of a telephone exchange*

1 *service or telephone toll service provider under*
2 *this subsection, the telecommunications carrier*
3 *submitting the change to an executing carrier*
4 *shall, at a minimum, require the subscriber—*

5 “(i) *to affirm that the subscriber is au-*
6 *thorized to select the provider of that service*
7 *for the telephone number in question;*

8 “(ii) *to acknowledge the type of service*
9 *to be changed as a result of the selection;*

10 “(iii) *to affirm the subscriber’s intent*
11 *to select the provider as the provider of that*
12 *service;*

13 “(iv) *to acknowledge that the selection*
14 *of the provider will result in a change in*
15 *providers of that service; and*

16 “(v) *to provide such other information*
17 *as the Commission considers appropriate*
18 *for the protection of the subscriber.*

19 “(B) *ADDITIONAL REQUIREMENTS.—The*
20 *procedures prescribed by the Commission to ver-*
21 *ify a subscriber’s selection of a provider shall—*

22 “(i) *preclude the use of negative option*
23 *marketing;*

24 “(ii) *provide for a complete copy of*
25 *verification of a change in telephone ex-*

1 *change service or telephone toll service pro-*
2 *vider in oral, written, or electronic form;*

3 “(iii) *require the retention of such ver-*
4 *ification in such manner and form and for*
5 *such time as the Commission considers ap-*
6 *propriate;*

7 “(iv) *mandate that verification occur*
8 *in the same language as that in which the*
9 *change was solicited; and*

10 “(v) *provide for verification to be made*
11 *available to a subscriber on request.*

12 “(C) *NOTICE TO SUBSCRIBER.—Whenever a*
13 *telecommunication carrier submits a change in a*
14 *subscriber’s selection of a provider of telephone*
15 *exchange service or telephone toll service, such*
16 *telecommunications carrier shall clearly notify*
17 *the subscriber in writing, not more than 15 days*
18 *after the change is submitted to the executing*
19 *carrier—*

20 “(i) *of the subscriber’s new carrier;*
21 *and*

22 “(ii) *that the subscriber may request*
23 *information regarding the date on which*
24 *the change was agreed to and the name of*
25 *the individual who authorized the change.*

1 “(3) *LIABILITY FOR VIOLATIONS.*—

2 “(A) *NOTIFICATION OF CHANGE.*—*The first*
3 *bill issued after the effective date of a change in*
4 *a subscriber’s provider of telephone exchange*
5 *service or telephone toll service by the executing*
6 *carrier for such change shall—*

7 “(i) *prominently disclose the change in*
8 *provider and the effective date of such*
9 *change;*

10 “(ii) *contain the name and toll-free*
11 *number of any telecommunications carrier*
12 *for such new service; and*

13 “(iii) *direct the subscriber to contact*
14 *the executing carrier if the subscriber be-*
15 *lieves that such change was not authorized*
16 *and that the change was made in violation*
17 *of this subsection, and contain the toll-free*
18 *number by which to make such contact.*

19 “(B) *AUTOMATIC SWITCH-BACK OF SERVICE*
20 *AND CREDIT TO CONSUMER OF CHARGES.*—

21 “(i) *OBLIGATIONS OF EXECUTING CAR-*
22 *RIER.*—*If a subscriber of telephone exchange*
23 *service or telephone toll service makes an al-*
24 *legation, orally or in writing, to the execut-*
25 *ing carrier that a violation of this sub-*

1 *section has occurred with respect to such*
2 *subscriber—*

3 *“(I) the executing carrier shall,*
4 *without charge to the subscriber, exe-*
5 *cute an immediate change in the pro-*
6 *vider of the telephone service that is the*
7 *subject of the allegation to restore the*
8 *previous provider of such service for*
9 *the subscriber;*

10 *“(II) the executing carrier shall*
11 *provide an immediate credit to the*
12 *subscriber’s account for any charges for*
13 *executing the original change of service*
14 *provider; and*

15 *“(III) if the executing carrier con-*
16 *ducts billing for the carrier that is the*
17 *subject of the allegation, the executing*
18 *carrier shall provide an immediate*
19 *credit to the subscriber’s account for*
20 *such service, in an amount equal to*
21 *any charges for the telephone service*
22 *that is the subject of the allegation in-*
23 *curring during the period—*

24 *“(aa) beginning upon the*
25 *date of the change of service that*

1 *is the subject of the allegation;*
2 *and*

3 “(bb) *ending on the earlier of*
4 *the date that the subscriber is re-*
5 *stored to the previous provider, or*
6 *30 days after the date the bill de-*
7 *scribed in subparagraph (A) is*
8 *issued.*

9 “(ii) *OBLIGATIONS OF CARRIERS NOT*
10 *BILLING THROUGH EXECUTING CARRIERS.—*
11 *If a subscriber of telephone exchange service*
12 *or telephone toll service transmits, orally or*
13 *in writing, to any carrier that does not use*
14 *an executing carrier to conduct billing an*
15 *allegation that a violation of this subsection*
16 *has occurred with respect to such subscriber,*
17 *the carrier shall provide an immediate cred-*
18 *it to the subscriber’s account for such serv-*
19 *ice, and the subscriber shall, except as pro-*
20 *vided in subparagraph (C)(iii), be dis-*
21 *charged from liability, for an amount equal*
22 *to any charges for the telephone service that*
23 *is the subject of the allegation incurred dur-*
24 *ing the period—*

1 “(I) beginning upon the date of
2 the change of service that is the subject
3 of the allegation; and

4 “(II) ending on the earlier of the
5 date that the subscriber is restored to
6 the previous provider, or 30 days after
7 the date the bill described in para-
8 graph (1) is issued.

9 “(iii) *TIME LIMITATION.*—This sub-
10 paragraph shall apply only to allegations
11 made by subscribers before the expiration of
12 the 1-year period that begins on the
13 issuance of the bill described in subpara-
14 graph (A).

15 “(C) *PROCEDURE FOR CARRIER REMEDY.*—

16 “(i) *IN GENERAL.*—The Commission
17 shall, by rule, establish a procedure for ren-
18 dering determinations with respect to viola-
19 tions of this subsection. Such procedure
20 shall permit such determinations to be made
21 upon the filing of (I) a complaint by a tele-
22 communications carrier that was providing
23 telephone exchange service or telephone toll
24 service to a subscriber before the occurrence
25 of an alleged violation, and seeking damages

1 under clause (ii), or (II) a complaint by a
2 telecommunications carrier that was pro-
3 viding services after the alleged violation,
4 and seeking a reinstatement of charges
5 under clause (iii). Either such complaint
6 shall be filed not later than 6 months after
7 the date on which any subscriber whose alle-
8 gation is included in the complaint submit-
9 ted an allegation of the violation to the exe-
10 cuting carrier under subparagraph (B)(ii).
11 Either such complaint may seek determina-
12 tions under this paragraph with respect to
13 multiple alleged violations in accordance
14 with such procedures as the Commission
15 shall establish in the rules prescribed under
16 this subparagraph.

17 “(ii) DETERMINATION OF VIOLATION
18 AND REMEDIES.—In a proceeding under
19 this subparagraph, if the Commission deter-
20 mines that a violation of this subsection has
21 occurred, other than an inadvertent or un-
22 intentional violation, the Commission shall
23 award damages—

24 “(I) to the telecommunications
25 carrier filing the complaint, in an

1 *amount equal to the sum of (aa) the*
2 *gross amount of charges that the car-*
3 *rier would have received from the sub-*
4 *scriber during the violation, and (bb)*
5 *\$500 per violation; and*

6 *“(II) to the subscriber that was*
7 *subjected to the violation, in the*
8 *amount of \$500.*

9 *“(iii) DETERMINATION OF NO VIOLA-*
10 *TION.—If the Commission determines that a*
11 *violation of this subsection has not occurred,*
12 *the Commission shall order that any credit*
13 *provided to the subscriber under subpara-*
14 *graph (B)(ii) be reversed, or that the carrier*
15 *may resubmit a bill for the amount of the*
16 *credit to the subscriber notwithstanding any*
17 *discharge under subparagraph (B)(ii).*

18 *“(iv) SPEEDY RESOLUTION OF COM-*
19 *PLAINTS.—The procedure established under*
20 *this subparagraph shall provide for a deter-*
21 *mination of each complaint filed under the*
22 *procedure not later than 6 months after fil-*
23 *ing.*

24 *“(D) MAINTENANCE OF INFORMATION.—*

1 “(i) *IN GENERAL.*—*The Commission*
2 *shall, by rule, require each executing carrier*
3 *to maintain information regarding each al-*
4 *leged violation of this subsection of which*
5 *the carrier has been notified.*

6 “(ii) *CONTENTS.*—*The information re-*
7 *quired to be maintained pursuant to this*
8 *paragraph shall include, for each alleged*
9 *violation of this subsection, the effective date*
10 *of the change of service involved in the al-*
11 *leged violation, the name of the provider of*
12 *the service to which the change was made,*
13 *the name, address, and telephone number of*
14 *the subscriber who was subject to the alleged*
15 *violation, and the amount of any credit*
16 *provided under subparagraph (B)(ii).*

17 “(iii) *FORM.*—*The Commission shall*
18 *prescribe one or more computer data for-*
19 *mats for the maintenance of information*
20 *under this paragraph, which shall be de-*
21 *signed to facilitate submission and compila-*
22 *tion pursuant to this subparagraph.*

23 “(iv) *MONTHLY REPORTS.*—*Each exe-*
24 *cuting carrier shall, on not less than a*
25 *monthly basis, submit the information*

1 *maintained pursuant to this subparagraph*
2 *to the Commission.*

3 “(v) *ACCESS TO INFORMATION.*—*The*
4 *Commission shall make the information*
5 *submitted pursuant to clause (iv) available*
6 *upon request to any telecommunications*
7 *carrier. Any telecommunications carrier ob-*
8 *taining access to such information shall use*
9 *such information exclusively for the pur-*
10 *poses of investigating, filing, or resolving*
11 *complaints under this section.*

12 “(4) *CIVIL PENALTIES.*—*Unless the Commission*
13 *determines that there are mitigating circumstances,*
14 *violation of this subsection is punishable by a forfeit-*
15 *ure of not less than \$40,000 for the first offense, and*
16 *not less than \$150,000 for each subsequent offense.*

17 “(5) *RECOVERY OF FORFEITURES.*—*The Com-*
18 *mission may take such action as may be necessary—*

19 “(A) *to collect any forfeitures it imposes*
20 *under this subsection; and*

21 “(B) *on behalf of any subscriber, to collect*
22 *any damages awarded the subscriber under this*
23 *subsection.*

24 “(d) *APPLICATION TO WIRELESS.*—*This section does*
25 *not apply to a provider of commercial mobile service.*

1 “(e) *COMMISSION REQUIREMENTS.*—

2 “(1) *SEMIANNUAL REPORTS.*—Every 6 months,
3 *the Commission shall compile and publish a report*
4 *ranking telecommunications carriers by the percent-*
5 *age of verified complaints, excluding those generated*
6 *by the carrier’s unaffiliated resellers, compared to the*
7 *number of changes in a subscriber’s selection of a pro-*
8 *vider of telephone exchange service and telephone toll*
9 *service.*

10 “(2) *INVESTIGATION.*—If a telecommunications
11 *carrier is listed among the 5 worst performers based*
12 *upon the percentage of verified complaints, excluding*
13 *those generated by the carrier’s unaffiliated resellers,*
14 *compared to its number of carrier selection changes in*
15 *the semiannual reports 3 times in succession, the*
16 *Commission shall investigate the carrier’s practices*
17 *regarding subscribers’ selections of providers of tele-*
18 *phone exchange service and telephone toll service. If*
19 *the Commission finds that the carrier is misrepresent-*
20 *ing adherence to the Code or is willfully and repeat-*
21 *edly changing subscribers’ selections of providers, it*
22 *shall find such carrier to be in violation of this sec-*
23 *tion and shall fine the carrier up to \$1,000,000.*

24 “(3) *CODE REVIEW.*—Every 2 years, the Com-
25 *mission shall review the Code to ensure its require-*

1 *ments adequately protect subscribers from improper*
2 *changes in a subscriber's selection of a provider of*
3 *telephone exchange service and telephone toll service.*

4 “(f) *ACTIONS BY STATES.*—

5 “(1) *IN GENERAL.*—Whenever an attorney gen-
6 *eral of any State has reason to believe that the inter-*
7 *ests of the residents of that State have been or are*
8 *being threatened or adversely affected because any*
9 *person has violated the Code or subsection (c), or any*
10 *rule or regulation prescribed by the Commission*
11 *under subsection (c), the State may bring a civil ac-*
12 *tion on behalf of its residents in an appropriate dis-*
13 *trict court of the United States to enjoin such viola-*
14 *tion, to enforce compliance with such Code, sub-*
15 *section, rule, or regulation, to obtain damages on be-*
16 *half of their residents, or to obtain such further and*
17 *other relief as the court may deem appropriate.*

18 “(2) *NOTICE.*—The State shall serve prior writ-
19 *ten notice of any civil action under paragraph (1)*
20 *upon the Commission and provide the Commission*
21 *with a copy of its complaint, except that if it is not*
22 *feasible for the State to provide such prior notice, the*
23 *State shall serve such notice immediately upon insti-*
24 *tuting such action. Upon receiving a notice respecting*
25 *a civil action, the Commission shall have the right*

1 (A) to intervene in such action, (B) upon so interven-
2 ing, to be heard on all matters arising therein, and
3 (C) to file petitions for appeal.

4 “(3) *VENUE*.—Any civil action brought under
5 this section in a district court of the United States
6 may be brought in the district wherein the defendant
7 is found or is an inhabitant or transacts business or
8 wherein the violation occurred or is occurring, and
9 process in such cases may be served in any district
10 in which the defendant is an inhabitant or wherever
11 the defendant may be found.

12 “(4) *INVESTIGATORY POWERS*.—For purposes of
13 bringing any civil action under this section, nothing
14 in this Act shall prevent the attorney general from ex-
15 ercising the powers conferred on the attorney general
16 by the laws of such State to conduct investigations or
17 to administer oaths or affirmations or to compel the
18 attendance of witnesses or the production of documen-
19 tary and other evidence.

20 “(5) *EFFECT ON STATE COURT PROCEEDINGS*.—
21 Nothing contained in this subsection shall prohibit an
22 authorized State official from proceeding in State
23 court on the basis of an alleged violation of any gen-
24 eral civil or criminal statute of such State.

1 “(6) *LIMITATION.*—Whenever the Commission
 2 has instituted a civil action for violation of this sec-
 3 tion or any rule or regulation thereunder, no State
 4 may, during the pendency of such action instituted by
 5 the Commission, subsequently institute a civil action
 6 against any defendant named in the Commission’s
 7 complaint for violation of any rule as alleged in the
 8 Commission’s complaint.

9 “(7) *ACTIONS BY OTHER STATE OFFICIALS.*—In
 10 addition to actions brought by an attorney general of
 11 a State under paragraph (1), such an action may be
 12 brought by officers of such State who are authorized
 13 by the State to bring actions in such State for protec-
 14 tion of consumers.

15 “(g) *STATE LAW NOT PREEMPTED.*—

16 “(1) *IN GENERAL.*—Nothing in this section or in
 17 the regulations prescribed under this section shall pre-
 18 empt any State law that imposes requirements, regu-
 19 lations, damages, costs, or penalties on changes in a
 20 subscriber’s selection of a provider of telephone ex-
 21 change service or telephone toll service that are less re-
 22 strictive than those imposed under this section.

23 “(2) *EFFECT ON STATE COURT PROCEEDINGS.*—
 24 Except as provided in subsection (f)(6), nothing con-
 25 tained in this section shall be construed to prohibit

1 *an authorized State official from proceeding in State*
 2 *court on the basis of an alleged violation of any gen-*
 3 *eral civil or criminal statute of such State or any*
 4 *specific civil or criminal statute of such State not*
 5 *preempted by this section.*

6 “(h) *RULES OF CONSTRUCTION.*—

7 “(1) *CHANGE INCLUDES INITIAL SELECTION.*—
 8 *For purposes of this section, the initiation of service*
 9 *to a subscriber by a telecommunications carrier shall*
 10 *be treated as a change in a subscriber’s selection of*
 11 *a provider of telephone exchange service or telephone*
 12 *toll service.*

13 “(2) *ACTION BY UNAFFILIATED RESELLER NOT*
 14 *IMPUTED TO CARRIER.*—*No telecommunications car-*
 15 *rier may be found in violation of this section solely*
 16 *on the basis of a violation of this section by an unaf-*
 17 *filiated reseller of that carrier’s services or facilities.*

18 “(i) *DEFINITIONS.*—*For purposes of this section:*

19 “(1) *SUBSCRIBER.*—*The term ‘subscriber’ means*
 20 *the person named on the billing statement or account,*
 21 *or any other person authorized to make changes in*
 22 *the providers of telephone exchange service or tele-*
 23 *phone toll service.*

24 “(2) *EXECUTING CARRIER.*—*The term ‘executing*
 25 *carrier’ means, with respect to any change in the pro-*

1 *vider of local exchange service or telephone toll serv-*
 2 *ice, the local exchange carrier that executed such*
 3 *change.*

4 “(3) *ATTORNEY GENERAL.*—*The term ‘attorney*
 5 *general’ means the chief legal officer of a State.”.*

6 (b) *NTIA STUDY OF THIRD-PARTY ADMINISTRA-*
 7 *TION.*—*Within 180 days of enactment of this Act, the Na-*
 8 *tional Telecommunications and Information Administra-*
 9 *tion shall report to the Committee on Commerce of the*
 10 *House of Representatives and the Committee on Commerce,*
 11 *Science, and Transportation of the Senate on the feasibility*
 12 *and desirability of establishing a neutral third-party ad-*
 13 *ministration system to prevent illegal changes in telephone*
 14 *subscriber carrier selections. The study shall include—*

15 (1) *an analysis of the cost of establishing a sin-*
 16 *gle national or several regional independent databases*
 17 *or clearinghouses to verify and submit changes in car-*
 18 *rier selections;*

19 (2) *the additional cost to carriers, per change in*
 20 *carrier selection, to fund the ongoing operation of any*
 21 *or all such independent databases or clearinghouses;*
 22 *and*

23 (3) *the advantages and disadvantages of utiliz-*
 24 *ing independent databases or clearinghouses for veri-*
 25 *fying and submitting carrier selection changes.*

TITLE II—SPAMMING

SEC. 201. SENSE OF THE CONGRESS.

It is the sense of the Congress that—

(1) in order to avoid interference with the rapid development and expansion of commerce over the Internet, the Congress should decline to enact regulatory legislation with respect to unfair or intrusive practices on the Internet that the private sector can, given a sufficient opportunity, deter or prevent; and

(2) it is the responsibility of the private sector to use that opportunity promptly to adopt, implement, and enforce measures to deter and prevent the improper use of unsolicited commercial electronic mail.

TITLE III—AUCTION RESCISSION AND RE-AUCTION

SEC. 301. RE-AUCTION OF C-BLOCK LICENSES.

(a) OPTION TO ELECT RESCISSION.—Upon the election of a C-block licensee, the Commission shall rescind such licensee's authority to utilize frequencies in the C-block in accordance with the provisions of subsection (b), and such action by the Commission shall cancel the debt obligations the licensee assumed under the C-block installment payment program.

1 (b) *REQUIREMENTS.—In carrying out the provisions*
2 *of this section, the Commission shall—*

3 (1) *require any licensee making an election*
4 *under subsection (a) to do so with regard to all its*
5 *C-block licenses;*

6 (2) *permit all licensees that returned C-block li-*
7 *censes to the Commission prior to the effective date of*
8 *this section (including those who elected a C-block re-*
9 *structuring option on June 8, 1998, pursuant to WT*
10 *Docket No. 97–82) to reconsider their decision prior*
11 *to making the election specified in subsection (a);*

12 (3) *grant each licensee that makes an election*
13 *pursuant to subsection (a) of this section a full bid-*
14 *ding credit in an amount equal to the sum of all*
15 *down payments, installment payments, and interest*
16 *payments made prior to the effective date of this sec-*
17 *tion, with such credit to be available to the licensee*
18 *to use in bidding on any license in a subsequent re-*
19 *auction of C-block frequencies that the Commission*
20 *shall commence prior to March 24, 1999;*

21 (4) *permit such bidding credit to be freely trans-*
22 *ferable, in whole or in part, to any entity that is eli-*
23 *gible to participate in the re-auction in accordance*
24 *with paragraph (7);*

25 (5) *not refund any unused bidding credit;*

1 (6) *not utilize installment payments in C-block*
2 *re-auctions;*

3 (7) *limit eligibility to participate in any re-auc-*
4 *tion of C-block spectrum to entities that (A) partici-*
5 *pated in the C-block auction which began on Decem-*
6 *ber 18, 1995, or the C-block auction which began on*
7 *July 3, 1996; and (B) any entity that would have*
8 *been eligible to participate in either of those auctions*
9 *under Commission rules in effect as of those dates;*
10 *and*

11 (8) *take final action within 60 days following*
12 *the end of a C-block re-auction on license applications*
13 *filed by entities the Commission has named as win-*
14 *ning bidders in the re-auction.*

15 (c) *OPERATIONAL LICENSEES.—The Commission shall*
16 *restructure the indebtedness of any C-block licensee that has*
17 *commenced offering service to the public in any BTA prior*
18 *to the start of the re-auction required by this section so that*
19 *the amount that such licensee owes the Commission for the*
20 *license for such BTA is approximately equal to the winning*
21 *amount bid at such re-auction for BTA's with comparable*
22 *populations.*

23 (d) *RULEMAKING REQUIRED.—The Commission shall*
24 *adopt a final order in WT Docket 97–82 implementing the*
25 *requirements of this section within 30 days of its enactment.*

1 (e) *SUSPENSION OF PAYMENTS.*—*The Commission*
 2 *shall suspend all payments due under the C-block restruc-*
 3 *turing rules (pursuant to WT Docket 97–82) until comple-*
 4 *tion of the re-auction required by this section.*

5 (f) *DEFINITIONS.*—*As used in this section—*

6 (1) *the term “Commission” means the Federal*
 7 *Communications Commission;*

8 (2) *the term “C-block” has the same meaning as*
 9 *under the Commission’s rules;*

10 (3) *the term “BTA” has the same meaning as*
 11 *under the Commission’s rules; and*

12 (4) *the term “licensee” means any entity the*
 13 *Commission named a high bidder in C-block auctions*
 14 *that began on December 18, 1995, or July 3, 1996,*
 15 *and who thereafter was authorized to utilize C-block*
 16 *frequencies, regardless of whether such entity subse-*
 17 *quently returned such licenses to the Commission in*
 18 *whole or in part.*

19 ***TITLE IV—GWCS AUCTION*** 20 ***DEADLINE***

21 ***SEC. 401. ELIMINATION OF ARBITRARY AUCTION DEADLINE.***

22 *Section 309(j)(9) of the Communications Act of 1934*
 23 *(47 U.S.C. 309(j)(9)) is amended by striking “, not later*
 24 *than 5 years after the date of enactment of this subsection,”.*

1 **TITLE V—REINSTATEMENT OF**
 2 **CERTAIN APPLICANTS**

3 **SEC. 501. REINSTATEMENT OF APPLICANTS AS TENTATIVE**
 4 **SELECTEES.**

5 (a) *IN GENERAL.*—Notwithstanding the order of the
 6 *Federal Communications Commission in the proceeding de-*
 7 *scribed in subsection (b), the Commission shall—*

8 (1) *reinstate each applicant as a tentative se-*
 9 *lectee under the covered rural service area licensing*
 10 *proceeding; and*

11 (2) *permit each applicant to amend its applica-*
 12 *tion, to the extent necessary to update factual infor-*
 13 *mation and to comply with the rules of the Commis-*
 14 *sion, at any time before the Commission’s final licens-*
 15 *ing action in the covered rural service area licensing*
 16 *proceeding.*

17 (b) *PROCEEDING.*—*The proceeding described in this*
 18 *subsection is the proceeding of the Commission In re Appli-*
 19 *cations of Cellwave Telephone Services L.P., Futurewave*
 20 *General Partners L.P., and Great Western Cellular Part-*
 21 *ners, 7 FCC Rcd No. 19 (1992).*

22 **SEC. 502. CONTINUATION OF LICENSE PROCEEDING.**

23 (a) *AWARD OF LICENSES.*—*The Commission shall*
 24 *award licenses under the covered rural service area licens-*

1 *ing proceeding within 90 days after the date of the enact-*
2 *ment of this title.*

3 (b) *SERVICE REQUIREMENTS.*—*The Commission shall*
4 *provide that, as a condition of an applicant receiving a*
5 *license pursuant to the covered rural service area licensing*
6 *proceeding, the applicant shall provide cellular radio-*
7 *telephone service to subscribers in accordance with sections*
8 *22.946 and 22.947 of the Commission’s rules (47 CFR*
9 *22.946, 22.947); except that the time period applicable*
10 *under section 22.947 of the Commission’s rules (or any suc-*
11 *cessor rule) to the applicants identified in subparagraphs*
12 *(A) and (B) of section 504(1) shall be 3 years rather than*
13 *5 years and the waiver authority of the Commission shall*
14 *apply to such 3-year period.*

15 (c) *EDUCATIONAL AND PUBLIC SAFETY INFRASTRUC-*
16 *TURE.*—*Upon the grant of a license by the Commission to*
17 *an applicant under the covered rural service area licensing*
18 *proceeding, the applicant shall provide to each public*
19 *school, library, and public safety entity (including police,*
20 *fire, and emergency medical service entities) located within*
21 *the rural service area of the grantee, at the option of each*
22 *such entity and free of charge—*

23 (1) *1 cellular telephone; and*

24 (2) *not less than 200 minutes of local service per*
25 *month for each such cellular telephone.*

1 *A telephone and local service for the telephone provided pur-*
 2 *suant to this subsection may be used only while the tele-*
 3 *phone is in the rural service area of the grantee and may*
 4 *be used only for official business of the school, library, or*
 5 *public safety entity for which it is provided.*

6 (d) *ENHANCED EMERGENCY SERVICES.*—*After the*
 7 *grant of a license by the Commission to an applicant under*
 8 *the covered rural service area licensing proceeding, the ap-*
 9 *plicant shall provide free of charge, during each emergency*
 10 *that requires activation of the Emergency Alert System (as*
 11 *referred to in section 11.1 of the Commission’s rules (47*
 12 *CFR 11.1) or any successor rule) within the rural service*
 13 *area of the grantee, to public safety personnel (including*
 14 *police, fire, and emergency medical services personnel)—*

15 (1) *at least 50, but not more than 100, cellular*
 16 *telephones; and*

17 (2) *service for each cellular telephone provided*
 18 *pursuant to paragraph (1).*

19 *A telephone and service for the telephone provided pursuant*
 20 *to this subsection may be used only for official business of*
 21 *public service personnel during the emergency for which it*
 22 *is provided.*

23 (e) *PRIVACY SAFEGUARDS.*—*Except as otherwise pro-*
 24 *vided under Federal law and the Commission’s rules, an*
 25 *applicant that is granted a license by the Commission*

1 *under the covered rural service area licensing proceeding*
2 *shall not disclose to any third party any location informa-*
3 *tion generated through a subscriber's use of a cellular tele-*
4 *phone in the service area of the applicant.*

5 (f) AUCTION AUTHORITY.—If, after the amendment of
6 an application pursuant to section 501(a)(2) of this title,
7 the Commission finds that the applicant is ineligible for
8 grant of a license to provide cellular radiotelephone services
9 for a rural service area or the applicant does not meet the
10 requirements under subsection (b) of this section, the Com-
11 mission shall grant the license for which the applicant is
12 the tentative selectee (pursuant to section 501(a)(1)) by
13 competitive bidding pursuant to section 309(j) of the Com-
14 munications Act of 1934 (47 U.S.C. 309(j)).

15 **SEC. 503. PROHIBITION OF TRANSFER.**

16 During the 5-year period that begins on the date that
17 an applicant is granted any license pursuant to section
18 501, the Commission may not authorize the transfer or as-
19 signment of that license under section 310 of the Commu-
20 nications Act of 1934 (47 U.S.C. 310). Nothing in this title
21 may be construed to prohibit any applicant granted a li-
22 cense pursuant to section 501 from contracting with other
23 licensees to improve cellular telephone service.

1 **SEC. 504. DEFINITIONS.**

2 *For the purposes of this title, the following definitions*
 3 *shall apply:*

4 (1) *APPLICANT.*—*The term “applicant” means—*

5 (A) *Great Western Cellular Partners, a*
 6 *California general partnership chosen by the*
 7 *Commission as tentative selectee for RSA #492*
 8 *on May 4, 1989;*

9 (B) *Monroe Telephone Services L.P., a*
 10 *Delaware limited partnership chosen by the*
 11 *Commission as tentative selectee for RSA #370*
 12 *on August 24, 1989 (formerly Cellwave Tele-*
 13 *phone Services L.P.); and*

14 (C) *FutureWave General Partners L.P., a*
 15 *Delaware limited partnership chosen by the*
 16 *Commission as tentative selectee for RSA #615*
 17 *on May 25, 1990.*

18 (2) *COMMISSION.*—*The term “Commission”*
 19 *means the Federal Communications Commission.*

20 (3) *COVERED RURAL SERVICE AREA LICENSING*
 21 *PROCEEDING.*—*The term “covered rural service area*
 22 *licensing proceeding” means the proceeding of the*
 23 *Commission for the grant of cellular radiotelephone*
 24 *licenses for rural service areas #492 (Minnesota 11),*
 25 *#370 (Florida 11), and #615 (Pennsylvania 4).*

1 (4) *TENTATIVE SELECTEE.*—*The term “tentative*
2 *selectee” means a party that has been selected by the*
3 *Commission under a licensing proceeding for grant of*
4 *a license, but has not yet been granted the license be-*
5 *cause the Commission has not yet determined whether*
6 *the party is qualified under the Commission’s rules*
7 *for grant of the license.*